IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1669 OF 2005

Swapnil Hiraman Mokashi
and Anr. ..Petitioners

Vs.

The State of Mah. & Ors. ..Respondents

...
Mr.Rajesh Datar Advocate for Petitioners
Mrs.Revati Mohite-Dre Adv.for Respondent No.2
Ms.S.V.Gajare A.P.P. for the State
...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : AUGUST 17,2006

P.C.

1. Heard the learned advocate for the Petitioners-original accused, Mrs.Dere, the learned advocate for the Respondent No.2-orignal complainant and the learned A.P.P. for the State.

2. The present Writ Petition has been preferred by the Petitioners-original accused for quashing of two C.Rs.relating to forgery and cheating i.e. C.R.No. 86 of 2004 of G.B.C.B.C.I.D. which case is under Sections 467, 468, 471 and 420 read with Section 34 of IPC and C.R.No.278 of 2004 of

Bandra-Kurla Complex Police Station which case is under the same Sections as C.R.No. 86 of 2004.

3. The Petitioners are also seeking quashing of two proceedings which are under Sections 138 of Negotiable Instruments Act. The said cases are bearing C.C.No.1166 of 2004 which is pending before the learned Judicial Magistrate, F.C. Thane and C.C.No.120/SS/2004 which is renumbered as C.C.No.554/SS/2005 which is pending before the learned Metropolitan Magistrate, 20th Court Esplanade, Mumbai. As far as the cases under the Negotiable Instruments Act are concerned, it would be open to the petitioners to file separate appropriate proceedings. Thus, the petition is being pressed only in respect of two C.Rs. i.e. C.R.No. 86 of 2004 and C.R.No.278 of 2004.

4. It is the contention of the petitioners that for one offence, two cases have been registered by police and as such the principle of double jeopardy would apply and two cases could not have been registered against the petitioners for the same offence. Hence, both the cases deserve to be quashed.

5. On behalf of the State, an affidavit has been filed by Police Sub-Inspector Shri.Shantaram Santram Bhoite of Economic Offences Wing, G.B.C.B.C.I.D.,Mumbai. In his reply, he has stated that Mr.Chanrudatta Khora, Vice President of Kotak Mahendra Bank filed the complaint against the petitioners inter alia stating that they submitted forged documents and obtained Book Debts Financing Facility of Rs.2,39,93,073. Mr.Chanrudatta Khora had come to the office of G.B.C.B.C.I.D., E.O.W. Unit-3, at Crawford Market and he met Sub-Inspector Manoj Seindre and gave written complaint to him. Thereafter, a preliminary enquiry was conducted and Deputy Commissioner of Police E.O.W., gave the permission for lodging the complaint and thereafter he called the complainant and went to Bandra-Kurla Complex Police Station and registered crime vide FIR No.278 of 2004 dated 9.11.2004. The said case was under Sections 465, 467, 468, 471, 420 r.w. 34 of IPC.

6. Then the said FIR No.278 of 2004 was sent for investigation to G.B.C.B.C.I.D., E.O.W. Unit at Crawford Market Mumbai and the offence came to be

registered vide C.R.No. 86 under Sections 465, 467, 468, 471 and 420 read with Section 34 of IPC. Thus, it is seen that two different offences have not been registered against the petitioners but FIR No.278 of 2004 was transferred from Bandra-Kurla Complex Police Station to G.B.C.B.C.I.D., and renumbered as C.R.No.86 of 2004. Thus, the petitioners are facing prosecution only in one case which is now renumbered as C.R.No. 86 of 2004.

7. It is also the contention of the petitioners that the cases are of civil nature and no criminal offence is made out. It is also contended that there is no forgery or cheating or forgery for the purpose of cheating. However, on perusal of the FIR, prima facie, it appears that an offence of forgery and cheating is made out. If the investigation in CR No.86 of 2004 is over and the charge-sheet is filed, it would be open to the petitioners to prefer appropriate proceedings in respect of the same.

8. Writ Petition is disposed of.

[V.K.TAHILRAMANI,J.]